

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution-General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 09-08-04.

The IRO reviewed office visits, massage therapy, electrical stimulation, therapeutic exercises and DME (electrodes) rendered from 09-08-03 through 03-03-04 that were denied based upon "V".

The IRO determined that office visits, massage therapy electrical stimulation and durable medical equipment from 09-08-3 through 03-03-04 as well as therapeutic exercises from 09-08-3 through 09-23-03 and 11-20-03 through 03-03-04 **were not** medically necessary. The IRO determined that the therapeutic exercises from 09-24-03 through 11-19-03 **were** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 01-26-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99080-73 dates of service 09-29-03, 12-03-03 and 02-02-04 denied with denial code "V" (unnecessary medical with peer review). The TWCC-73 is a required report and is not subject to an IRO review per Rule 129.5. The Medical Review Division has jurisdiction in this matter. Reimbursement is recommended in the amount of \$45.00 (\$15.00 X 3 DOS).

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 09-29-03, 10-22-03, 10-24-03, 10-27-03, 10-29-03, 10-31-03, 11-03-03, 11-05-03, 1-107-03, 11-10-03, 11-12-03, 11-14-03, 11-17-03, 12-03-03 and 02-02-04 in this dispute.

This Findings and Decision and Order are hereby issued this 1st day of March 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION

November 11, 2004

Amended Letter 01/25/05

Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: Injured Worker:
MDR Tracking #: M5-05-0113-01
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. TMF's health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

The 22 year-old male injured his low back on ____ while lifting a heavy marble top. He also complains of pain radiating into his right hip and leg along with weakness in the right leg. His diagnosis is L5-S1 disc protrusion with disc disruption. He has been treated with medications, therapy and surgery.

Requested Service(s)

Office visits, massage therapy, electrical simulation, durable medical equipment and therapeutic exercises for dates of service 09/08/03 through 03/03/04

Decision

It is determined that there is no medical necessity for the office visits, massage therapy, electrical stimulation, and durable medical equipment for dates of service 09/08/03 through 03/03/04 to treat this

patient's medical condition. Additionally, therapeutic exercises for dates of service 09/08/03 through 09/23/03 and 11/20/03 through 03/03/04 were not medically necessary to treat this patient's medical condition. However, therapeutic exercises for dates of service 09/24/03 through 11/19/03 were medically necessary to treat this patient's medical condition.

Rationale/Basis for Decision

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. Expectation of improvement in a patient's condition should be established based on success of treatment. While post-operative active therapy would be indicated for a period of 4-8 weeks, continued treatment would be expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. In this case, medical record documentation does not indicate an objective or functional improvement in this patient's condition. Therefore, the medical necessity of the massage therapy cannot be supported. Additionally, the therapeutic exercises after the indicated 8 weeks (11/19/03) cannot be supported.

Medical record documentation does not indicate the necessity for the office visits. In fact, on most dates of services, it cannot be determined if the provider provided any form of physical medicine treatment or if there was any direct contact with the patient. Therefore, the office visits, massage therapy, electrical stimulation, and durable medical equipment for dates of service 09/08/03 through 03/03/04 were not medically necessary to treat this patient's medical condition. Additionally, therapeutic exercises for dates of service 09/08/03 through 09/23/03 and 11/20/03 through 03/03/04 were not medically necessary to treat this patient's medical condition, however therapeutic exercises for dates of service 09/24/03 through 11/19/03 were medically necessary to treat this patient's medical condition.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:dm

Attachment

Information Submitted to TMF for TWCC Review

Patient Name:

TWCC ID #: M5-05-0113-01

Information Submitted by Requestor:

- Report of Medical Evaluation
- Peer Review
- Diagnostic Tests
- Progress Notes Dr. Rosenstein
- Daily Treatment Records
- Claims
- Carrier's Position

Information Submitted by Respondent:

- Carrier's Position
- Daily Treatment Records
- Diagnostic Tests
- Operative Reports
- Work Hardening Program Notes